

Synopsis from - NHB NCLT application (clearly stating that DHFL has securitized loans on which it had refinanced in contravention of its agreement & NHB Act). Shockingly, Administrator has failed mark these securitizations as fraudulent before presenting Resolution Plan.

NHB's Misc. Application (27.07.2020) under main CP (IB) 4258 (MB) of 2019 – RBI vs DHFL.PDF

Synopsis

The above Petition was filed under Section 227-read with clause (zk) of sub-section (2) of section 239 of the Insolvency and Bankruptcy Code 2016 ("IBC") & read with Rules 5 and 6 of the Insolvency and Bankruptcy (Insolvency and Liquidation Proceedings of Financial Service Providers and Application to Adjudication Authority) Rules 2019 ("FSP Rules"), by the Petitioner to initiate Corporate Insolvency Resolution Process against Dewan Housing Finance Corporation Limited (DHFL), the Respondent hereinabove under the Insolvency and Bankruptcy Code, 2016. By an order dated 3rd December, 2019, the Hon 'ble Tribunal was pleased to observe that DHFL has committed default in repayment of its debt as defined Under Section 3 (12) of the IBC. The Petition was admitted by this Hon'ble Tribunal and Mr. R Subramaniakumar was appointed as the Administrator to perform all the functions of a Resolution Professional to complete the Corporate Insolvency Resolution Process ("CIRP") of DHFL. The Applicant is a statutory body established under the National Housing Bank Act, 1987 ("NHB Act"). The Applicant under its refinance scheme had granted financial assistance in the form of refinance to DHFL from time to time starting from the year 2004 until 2017 upon the terms and conditions contained in the security documents executed in favour of the Applicant from time to time. In addition to the DHFL committing defaults in payment of the amounts extended by the Applicant under the refinance facilities. ***DHFL in contravention of the security documents and the provisions of Section 16B of the National Housing Bank Act, 1987 has undertaken securitization transactions of the loans that are earmarked and tagged in favour of the Applicant for the refinance facility availed by DHFL***, thereby causing the Applicant being one of the All India Financial Institution to a loss for every passing day in this time of crisis. In spite of the Notification dated 30th January 2020 regarding third party assets, the Administrator has not considered the same, more so, when the Administrator has made payment to the lenders who have in fact securitized the loans which were solely earmarked to the Applicant.